



# *The Commonwealth of Massachusetts*

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February 6, 2018

Hon. Joan B. Lovely, Co-Chair  
Hon. Kay Khan, Co-Chair  
Joint Committee on Children, Families and Persons with Disabilities  
Massachusetts State House  
Boston, MA 02133

RE: Written Testimony regarding HB 4104, An Act relative to background checks by the Department of Youth Services

Dear Members of the Joint Committee on Children, Families and Persons with Disabilities:

I am writing to offer testimony regarding the above-referenced Bill and its potential impact on the ability of the Department of Youth Services ("DYS") to recruit and retain a diverse, skilled and robust workforce. As the juvenile justice agency for the Commonwealth of Massachusetts, the Department of Youth Services promotes positive change in the youth in our care and custody. Our mission is to make communities safer by improving the life outcomes for youth in our care. We achieve our mission by investing in highly qualified staff and a service continuum that engages youth, families and communities in strategies that support positive youth development. To that end, we fully support legislation that enhances our abilities to perform the screening necessary to ensure that we are able to hire appropriate candidates in a timely fashion.

HB 4104 adds Section 8A to G.L. c.18A which will give the Department statutory authority to fingerprint individuals who are or are applying to be a DYS employee, subcontractor, volunteer or intern (hereafter referred to as "DYS staff") and would have the potential for unsupervised contact with children in DYS programs. The Department of Early Education and Care ("DEEC") is presently responsible for conducting fingerprint-based criminal record checks on individuals working in DYS programs subject to DEEC licensing. As a result of discussions with DEEC that highlighted the complexity and logistical challenges for DEEC to conduct the fingerprint based background check on DYS staff, DYS determined that statutory authority was necessary to expand its authority to conduct fingerprint background checks.

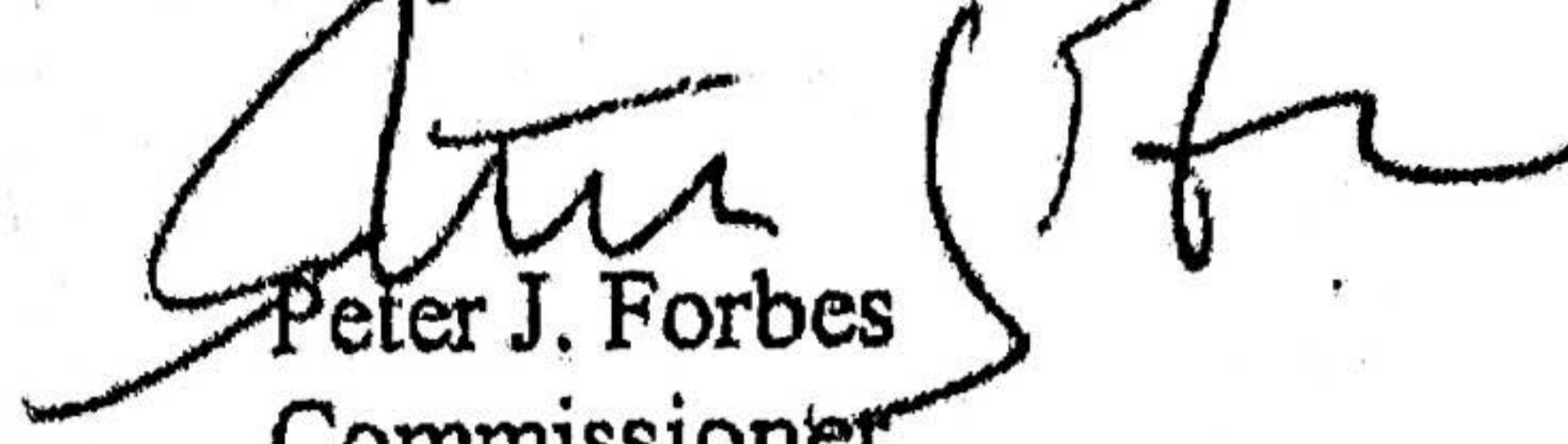
Unlike the other operators of most DEEC licensed programs, DYS has been conducting criminal background checks for many years. Except for the fingerprinting, the DYS background checks have historically been broader in scope than the DEEC background checks. As a criminal justice agency, DYS has direct access to the Criminal Justice Information System and has been running criminal background checks on prospective and current state employees, subcontractors, teachers, volunteers, and interns working in DYS facilities and programs. DYS, as does DEEC, checks whether these DYS staff are on the registries of the Sex Offender Registry Board or the Department of Children and Families and their driving histories through the Registry of

Motor Vehicles database. DYS already has the structure, process and procedures in place to include fingerprinting as part of its background check responsibility.

It is worth noting that the DEEC background check only applies to individuals working in DYS programs subject to licensing by DEEC. Without this statutory authority, we will find DEEC conducting the criminal background check and determining the suitability of those DYS staff to work in the DEEC licensed program while DYS would continue to conduct the criminal background checks on those individuals working in DYS programs that are not licensed by DEEC. Also, unlike the other operators of programs licensed by DEEC, DYS is subject to the Prison Rape Elimination Act (PREA) and is required to conduct criminal background checks of individuals working in DYS program every 3 years. Giving DYS the statutory authority to conduct fingerprint-based criminal background check will reduce confusion and potential redundancy in the required reviews and promote consistency and efficiency in the operations and staffing of the DYS residential and community programs.

We appreciate the Joint Committee's consideration of DYS' comments on proposed MA House Bill 4104 and would be happy to answer any further questions that might be of assistance.

Respectfully submitted,



Peter J. Forbes  
Commissioner